

REMARKS

The claims are 1-14, 19, and 22, with claim 1 being independent. Claims 15-18 and 20-21 have been canceled without prejudice or disclaimer. Claim 1 has been amended in accordance with the prior election. Support for the amendments to claim 1 may be found on page 4, line 21 of the specification. Claim 11 has been amended in accordance with the amendments made to claim 1. Additionally, the term "hydrochloride salt" has been removed from the names of two of the compounds listed in claim 11 to avoid potential confusion with the phrase "or a pharmaceutically acceptable salt thereof."

Previously pending claims 15-17 were objected to under 37 CFR 1.75 as being a substantial duplicate of claims 1-11. Additionally, claim 18 was rejected under 35 U.S.C. 112, first paragraph, with the Examiner contending that the specification, while being enabling for treating anxiety employing the claimed compounds, does not reasonably provide enablement for treating all CNS disorders. Accordingly, Applicants understand that the Examiner would find claim 19 to be enabled. Cancellation of claims 15-18 renders these rejections moot, however, Applicants will address the rejections to the extent that they may apply to the pending claims.

Applicants respectfully submit that one of ordinary skill in the art would be able to make and use the invention defined in claim 22. Support for the combination of a compound of the invention with a selective serotonin reuptake inhibitor (SSRI) or a noradrenaline re-uptake inhibitor (SNRI) may be found on page 12, lines 1-4. Support for the treatment of depression using a 5-HT_{2C} receptor antagonist in combination with a selective serotonin reuptake inhibitor or a noradrenaline re-uptake inhibitor may be found in the documents listed in the IDS submitted herewith. The listed documents include journal articles describing *in vivo* studies demonstrating the potentiation of SSRI-induced increases in hippocampal serotonin levels by selective 5-HT_{2C} receptor antagonists (Cremers et al., *Neuropsychopharmacology*, 29: 1782-1789 (2004)) and an increase in extracellular dopamine levels upon injection of nefazodone, a serotonin/noradrenaline reuptake inhibitor and 5-HT_{2C} receptor antagonist (Dremencov et al., *Neuropharmacology*, 48: 34-42 (2005)).

Claims 1-11 and 15-19 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being allegedly unpatentable over claims 1-13 and 15-19 of copending Application No. 10/518,118 (Applicants understand this to be copending Application No. 10/548,118, corresponding to WO 04/078718) in view of WO 03/57220. The Examiner contends that the difference between the instant claims and the copending claims is the “position isomerism that is the location of the substituents on the core structure.” Applicants respectfully disagree.

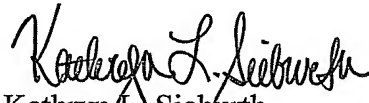
The differences between the compounds defined in the instant claims and those of the copending claims are significantly greater than the result of positional isomerism. Not only are the substituents of the core ring system (R_1 and R_2) on opposite sides of the central ring (relative to the phenyl group bearing the YCH_2DZ moiety), the exchange of a planar sp^2 nitrogen atom and a chiral sp^3 carbon atom at different core ring positions results in significant alteration of the 3-dimensional structures of the molecules. Applicants contend that such modifications to the core structure of the inhibitors could potentially result in significant differences in the binding of a receptor. At the time of the invention, in view of the high degree of unpredictability in the pharmaceutical compound art, there was no basis for one of ordinary skill in the art to expect that such structural modification would consistently lead to the same predictable results. Thus, these compounds are patently distinct.

Application	Generic Structure
Present Case	
WO 04/078718	
WO 03/057220	

Application No.: 10/511,769
Group Art No.: 1625

In view of the foregoing amendments and remarks, Applicants respectfully submit that the subject application is in condition for allowance. Applicants believe that they have addressed each of the Examiner's concerns and met each of the objections. If the Examiner has any remaining objections or concerns, the Examiner is respectfully requested to contact Applicants' undersigned attorney to resolve such issues and advance the case to issue.

Respectfully submitted,



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